

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GOODMAN BALL, INC.,)	
)	
Plaintiff(s),)	No. C07-1148 BZ
)	
v.)	ORDER GRANTING
)	JURISDICTIONAL DISCOVERY
CLEAR WATER USA, INC., et)	
al.,)	
)	
Defendant(s).)	
_____)	

Before me is defendants' motion to dismiss plaintiff's complaint for lack of personal jurisdiction and improper venue or, in the alternative, to transfer venue.¹ Plaintiff's complaint accuses Clear Water USA, Inc., and Denouement Strategies, Inc., of infringing on its patented water purification technology in violation federal patent law. See Complaint ¶ 1. Defendants argue that this Court does not have personal jurisdiction over them and that plaintiff's complaint must therefore be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(2). They also attack plaintiff's choice of venue and, alternatively, seek transfer to the Middle District

¹ All parties have consented to my jurisdiction for all proceedings, including entry of final judgment, pursuant to 28 U.S.C. § 636(c).

1 Court in Florida. In its opposition, plaintiff requested
 2 leave to take jurisdictional discovery in the event I cannot
 3 resolve the matter on this record.

4 Having considered the parties' papers² and the
 5 declarations and other admissible evidence provided therewith,
 6 I conclude that the factual record is inadequate to permit a
 7 proper resolution of the motion and that plaintiff should be
 8 allowed to take limited jurisdictional discovery.³

9 Jurisdictional discovery "is appropriate where the
 10 existing record is 'inadequate' to support personal
 11 jurisdiction and 'a party demonstrates that it can supplement
 12 its jurisdictional allegations through discovery.'" Trintec
 13 Industries, Inc. v. Pedre Promotional Products, Inc., 395 F.3d
 14 1275, 1283 (Fed. Cir. 2005) (citing GTE New Media Servs., Inc.
 15 v. BellSouth Corp., 199 F.3d 1343, 1351-52 (D.C. Cir. 2000));
 16 see also Harris Rutsky & Co. Ins. Servs., Inc. v. Bell
 17 & Clements Ltd., 328 F.3d 1122, 1135 (9th Cir. 2003).

18 Contrary to defendants' assertion, plaintiff's argument as to
 19 the presence of personal jurisdiction is neither attenuated
 20

21 ² Plaintiff filed a request for leave to file a sur-
 22 reply to defendants' reply. Docket No. 31. Good cause
 23 appearing, that request is **GRANTED**. Plaintiff's sur-reply
 [Docket No. 31-2] is deemed filed.

24 ³ With their reply, defendants objected to certain
 25 evidence proffered by plaintiff [Docket No. 30], including
 26 relevance objections to copies of a default judgment and notice
 of recording foreign judgment relating to a California state
 suit between Clear Water and a California resident corporation.
 This evidence goes to Clear Water's connections to California;
 I therefore **OVERRULE** these objections. The remaining three
 27 objections dealt with evidence I did not rely on to reach this
 28 determination. I will therefore **DEFER** ruling on these
 objections until after discovery and further briefing.

1 nor based on bare allegations. The evidence plaintiff has
2 provided combined with Mr. Holmich's inconsistent statement,
3 is sufficient to allow plaintiff to conduct limited discovery
4 in support of its jurisdictional allegations. The court
5 suggests plaintiff focus its discovery on the following areas:

6 1. Whether the water purification systems found in
7 California originated with defendants.

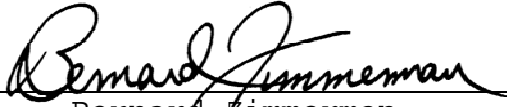
8 2. The relationship between defendants, Acqua America,
9 Inc., and Mach II Aviation, Inc.;

10 3. Defendants' roles in purchasing, selling, shipping,
11 maintaining, or servicing the allegedly infringing
12 purification systems found by plaintiff in Port Hueneme,
13 California.

14 4. The extent to which defendants have conducted
15 business in California via their web sites;

16 For the reasons discussed, **IT IS HEREBY ORDERED** that
17 plaintiff's request to take jurisdictional discovery is
18 **GRANTED**. Plaintiff shall file a supplemental opposition
19 limited to any newly discovered evidence on the jurisdictional
20 issue by **August 31, 2007**. Defendants shall file a reply by
21 **September 10, 2007**. The motion will be heard on **September 19,**
22 **2007 at 10:00 a.m.** in Courtroom G, 15th Floor, Federal
23 Building, 450 Golden Gate Avenue, San Francisco, California
24 94102. The hearing scheduled for **July 11, 2007** is **VACATED**.

25 Dated: June 21, 2007

26 
27 Bernard Zimmerman
28 United States Magistrate Judge

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